

REMARKS

This paper is filed in response to the First Office Action. An Information Disclosure Statement and Formal Drawings are submitted with this Amendment. Claims 1-14 have been canceled without prejudice or disclaimer. New claims 15-25 are presented to describe the “on-the-fly” stream switch processing described in the written description at page 13, line 15 through page 14, line 20. (See, also the text at page 5, lines 11-13, and the Abstract at line 10-13). This technique is neither disclosed nor suggested by the prior art of record.

In particular, in the First Office Action, the Examiner identified Section 4.2 of the Challenger et al. article as providing this functionality. This conclusion is misplaced. In the first instance, Challenger et al. describe a distributed system for delivery of Web page content, not media streams. Section 4.2 of the article describes the techniques used to route Web page content requests and simply makes mention of a router failover capability:

The request would only be sent to the secondary Net Dispatcher box for a given address if the primary Net Dispatcher box was down or had failed for some reason. If the secondary Net Dispatcher also failed, traffic would be routed to the primary ND in a different complex; this is similar to the situation where a system deliberately does not advertise an address in order to move traffic from one complex to another.

This is not what Applicant is claiming, however. Rather, claim 15 describes the “on the fly” stream switch (from the first server to the second server) as follows:

“as a media stream is being received from a first server and rendered by the media player,
determining whether the media stream is acceptable according to a given metric;
if the media stream is not acceptable, and as the media stream continues to be received,
taking a given action to initiate delivery of the media stream from a second server; and
receiving the media stream from the second server” (emphasis added).

The “failover” technique described in Challenger et al. ensures that the request handling mechanism for the distributed network remains available. It does not address the entirely distinct question of whether a given media player is receiving an “acceptable” media stream (according to some metric) and what to do if not. That is the focus of claim 15. As Challenger et al. do not describe streaming media in the context of their overall system, they cannot disclose or suggest the subject matter now positively recited in the claims.

The secondary references and the newly cited art does not disclose the specific "on the fly" media stream switching capability now recited in claims 15-25.

A Notice of Allowance is respectfully requested.

Respectfully submitted,



Martin Korn
Registration No. 28,317

Date: March 23, 2005
LOCKE LIDDELL & SAPP LLP
2200 Ross Ave., Suite 2200
Dallas, Texas 75201-6776
(214) 740-8549 Telephone
(214) 756-8549 Facsimile